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SERVICE DATE - MAY 28, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 416X)

**The Burlington Northern and Santa Fe Railway Company—Abandonment and Discontinuance
of Service Exemption—in Bottineau County, ND**

BACKGROUND

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon and discontinue service over approximately 15.5 miles of rail line extending from BNSF Milepost 52.00 near Souris, to BNSF Milepost 67.50 near Westhope, in Bottineau County, ND. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the line was acquired by the Dakota and Great Northern Railway Company, a predecessor to the Great Northern Railway (GN). In 1970, GN merged to become part of the Burlington Northern Railroad (BN), and in 1995, BN merged with the Atchison Topeka and Santa Fe Railway (ATSF) to become BNSF. The line travels through an area that is primarily rural and agricultural, where crops such as wheat and barley are grown. Most of the adjoining land along the right-of-way is flat to rolling, and the right-of-way is 100 feet in width with varying widths at the stations along the line. Abandonment of the line will allow for the elimination of sixteen public crossings and eleven private crossings.

According to BNSF, there has been no traffic on the line for at least two years and there are no structures that are 50 years of age or older in the immediate area of the proposed abandonment. BNSF further states that, although the proposed abandonment may require the removal of track materials such as rails and ties, it intends to leave the roadbed intact. The right-of-way may be suitable for alternative public use.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The National Geodetic Survey has advised us that five geodetic station markers have been identified that may be affected by the proposed abandonment.

Because traffic has not moved on the subject rail line for at least two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

The U.S. Army Corps of Engineers, Omaha District, has determined that the proposed abandonment, as outlined by BNSF, would not involve the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

According to the Bottineau Field Office of the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), the proposed project is expected to have minimal impact on prime farmlands in the project area. The NRCS stated that an AD 1006 Farmland Conversion Impact Rating will not be necessary, unless there will be disturbance outside the railroad right-of-way. BNSF stated in its application that the proposed abandonment may require the removal of the track materials but the road bed will remain intact. Therefore, adverse effects to prime farmland would not be expected.

According to the U.S. Department of the Interior, Fish and Wildlife Service - North Dakota Field Office (USFWS), approximately 1.8 miles of the line crosses J.Clark Salyer National Wildlife Refuge (Wildlife Refuge). The USFWS submitted comments stating that it has no objection to the project, as proposed; however, track material, including rail and ties, should be removed from the portion of the line that crosses the Wildlife Refuge. Accordingly, SEA will recommend that BNSF remove track materials from the following portion of the line: T. 163 N., R. 79 W., Section 31 and T. 162 N., R. 79 W., Sections 5 and 6.

The U.S. Department of the Interior, Bureau of Land Management (BLM), stated that it has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area. However, the BLM requests that BNSF keep it informed as to the continued abandonment process.

The North Dakota Parks and Recreation Department (NDPRD), stated that the project, as proposed, would not affect state park lands that the agency manages or Land Water Conservation Fund recreation projects that the agency coordinates. However, the NDPRD recommends that any impacted areas be revegetated with species native to the project area. To ensure that the concerns of the NDPRD are adequately addressed, SEA recommends a condition that requires BNSF to consult with NDPRD prior to commencing salvaging activities.

According to BNSF, there are no known hazardous waste sites or hazardous material spill sites on the subject ROW.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the State Historical Society of North Dakota (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). At the time this EA was prepared, the SHPO had not completed its assessment of the proposed abandonment. The SHPO has requested additional information from BNSF, including a Class I Cultural Resources Inventory¹ of the Area of Potential Effect be prepared and submitted to its office for consultation. The SHPO also recommended that any previously unrecorded and unevaluated abandoned or to-be-abandoned stations over 50 years of age along the railway line be recorded and preliminarily evaluated by a state-permitted cultural resource firm. (NDSHPO REF.: 04-0288). Pending completion of the SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

We recommend that the following five (5) conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified five (5) geodetic station markers that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS at least 90 days prior to any salvage activities, in order to plan for their relocation.
2. The U.S. Department of the Interior, Fish and Wildlife Service - North Dakota Field Office has expressed concerns about the approximately 1.8-mile portion of the line that crosses J.Clark Salyer

¹ For the Class I Cultural Resources Inventory, BNSF is required to perform a files search. BNSF shall submit the results of the files search in: 1) a short report detailing all cultural resources (including potential or actual historic properties) in the legal sections of the APE and 2) 7.5' topographic maps with the cultural resource locations and previously inventoried areas plotted and marked.

National Wildlife Refuge (Wildlife Refuge). Accordingly, SEA will recommend that BNSF remove track materials, including rail and ties, from the portion of the line that crosses the Wildlife Refuge.

3. The U.S. Department of the Interior, Bureau of Land Management (BLM) requested that BNSF keep it informed as to the continued abandonment process. Accordingly, SEA will recommend a consultation condition requiring that BNSF contact the BLM prior to commencement of any salvage activities on this project.

4. The North Dakota Parks and Recreation Department (NDPRD) recommends that any areas impacted by the abandonment be revegetated with species native to the project area. To ensure that the concerns of the NDPRD are adequately addressed, SEA recommends a condition that requires BNSF to consult with NDPRD prior to commencing salvaging activities.

5. The State Historical Society of North Dakota (the State Historic Preservation Office or SHPO) has requested that a Class I Cultural Resources Inventory of the Area of Potential Effect be prepared and submitted to its office for consultation and recommended that any previously unrecorded and unevaluated abandoned or to-be-abandoned stations over 50 years of age along the line be recorded and preliminarily evaluated by a state-permitted cultural resource firm. Accordingly, BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub No. 416X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

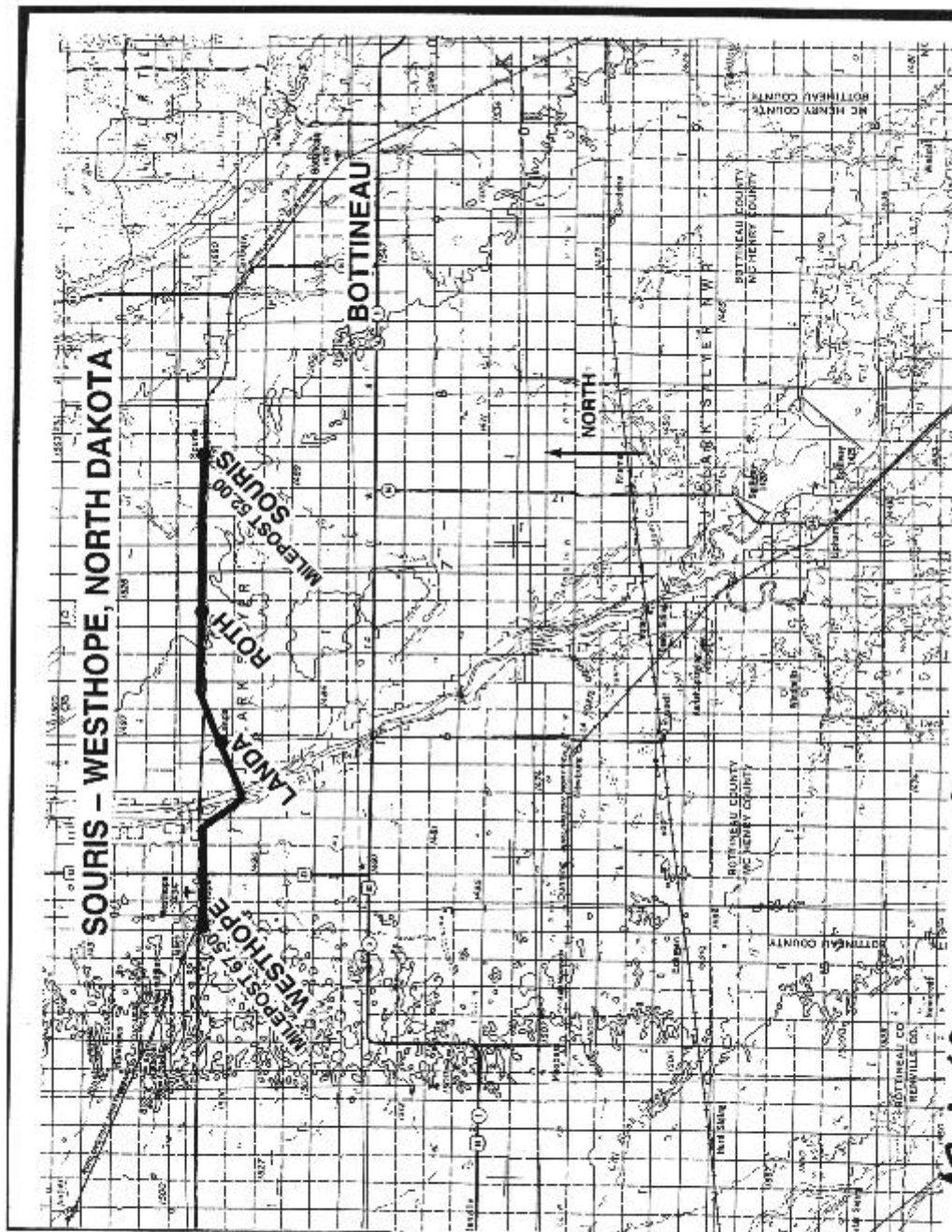
Date made available to the public: May 28, 2004.

Comment due date: June 11, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment



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DEBRA